

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**NICOLE HARRIS,**

**Plaintiff,**

Y.

**CITY OF CHICAGO, et al.,**

**Defendants.**

**No. 14-cv-4391**

**Judge Darrah  
Magistrate Cox**

**PLAINTIFF HARRIS' MOTION IN LIMINE TO LIMIT  
DEFENDANTS' INQUIRY OF PLAINTIFF'S EXPERT  
PROFESSOR CHARLES HONTS**

# EXHIBIT A



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1 APPEARANCES:

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17 On behalf of the City of Chicago;

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On behalf of the Defendants Chicago Police  
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Balodimas, #21204; Robert Cordaro, #20680;  
John J. Day, #20926; James M. Kelly, #21121;  
Michael Landando, #20417; Anthony Noradin,  
#21252; and Randal Wo, #20232.

\* \* \* \* \*

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1 Q. Okay. Thanks for the clarification.

2 In addition to polygraphs and whatever other  
3 issues, you've been retained over 300 times on behalf of  
4 criminal defendants?

5 A. I would say that's fair.

6 Q. Now, of the 400 times you've been retained,  
7 how many times have you been retained on the issue of  
8 polygraphs?

9 MS. SUSLER: Objection, form, the number.

10 BY THE WITNESS:

11 A. And, again, I don't know the absolute number.  
12 I could say approximately 80 percent.

13 Q. And on the -- As to the other 20 percent, what  
14 other issues are you -- have you been retained to give  
15 expert opinion on?

16 A. I have -- Child witnesses, so proper  
17 interviewing and assessment of the credibility of child  
18 witnesses; interrogations; false confessions; eyewitness  
19 testimony; statistics.

20 Q. Any other issues?

21 A. I don't believe so.

22 Q. Of the 20 percent, how much related to child  
23 witnesses?

24 A. And I'm not -- I'm just having to estimate,

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1 because I don't know the answer. I'd say of the  
2 20 percent, 5 percent of the 20 perc- -- or 5 percent --  
3 If we're dividing the 20 percent --

4 Q. Correct.

5 A. -- 5 -- 5 of that 20 -- out of 25 would be on  
6 child witnesses.

7 Q. And how about on interrogations?

8 A. Some of those overlap, because often I talk  
9 about interrogations and false confessions at the same  
10 time. Interrogations only, there's only one case I can  
11 think of. And then the others have included both  
12 topics.

13 Q. How about false confessions?

14 A. Same thing, they overlap. So that's -- that's  
15 the majority. I've testified twice about eyewitness  
16 testimony, and the rest is going to be interrogation and  
17 false confessions.

18 Q. And how many times have you testified on  
19 statistics?

20 A. Once.

21 Q. Do you hold yourself out to be an expert on  
22 statistics?

23 A. I certainly have the -- I mean, I'm qualified  
24 to give expert testimony on statistics, yes.

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1 Q. And you --

2 A. I was trained quantitatively.

3 Q. And you hold yourself out to be an expert on  
4 eyewitness testimony?

5 A. I have. I've given testimony on that. I  
6 don't seek that work at all.

7 Q. And you hold yourself out to be an expert on  
8 interrogations and false confessions?

9 A. Yes.

10 Q. And you hold yourself out to be an expert on  
11 child witnesses?

12 A. I felt like -- I felt that I was qualified in  
13 that area at one time. I don't do that work anymore.

14 Q. Do you feel you're no longer qualified in that  
15 area?

16 A. Well, I -- I'm no longer current in that area.  
17 There's just too much to read.

18 Q. Of the total times that you've been retained  
19 as an expert regarding polygraphs -- And so I guess in  
20 the 80 percent of your retention work -- Of those times,  
21 how many times have you been critical of a polygraph  
22 exam that someone else gave?

23 A. Uh-huh. I don't -- Again, I don't know the  
24 answer to that. Over the last few years, there have

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1 the Neufeld Scheck?

2 A. Yes.

3 Well, when you say "consulted with," do you  
4 mean retained or do you mean talked to them? Because  
5 I've talked to them informally about a number of cases.  
6 I've only been -- I had formal involvement on five, and  
7 not all of those I was paid on. Two of those were  
8 pro bono.

9 Q. On the informal stuff -- Do you get paid on  
10 any of the informal stuff?

11 A. No.

12 Q. So you were paid on three of the five cases?

13 A. That's my recollection.

14 Q. Do you recall how much money you've been paid  
15 by their office?

16 A. No, I don't.

17 Q. Would you estimate over \$50,000?

18 A. No.

19 Q. Would you estimate over \$30,000?

20 A. I would say it's between 20 and 30.

21 Q. And your informal -- How often is the informal  
22 discussions with them?

23 A. It varies. I'd say about once a year either  
24 one of them will call me up and say, "What about this?"

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1 BY THE WITNESS:

2 A. I'd have to go back to my records, but it's  
3 four or five now over the years.

4 Q. And how many informal discussions with them?

5 A. I don't recall any with them.

6 Q. Did all the Northwestern cases -- Any of the  
7 Northwestern cases pro bono?

8 A. No.

9 MS. SUSLER: And just for the record, I'm just  
10 going to have a continuing objection to your lumping  
11 everyone as "Northwestern." But go ahead.

12 BY MR. KAMIONSKI:

13 Q. Okay. And what are the names of all the  
14 Northwestern cases you worked on?

15 A. I'd have to go back through my files at home  
16 to tell you that, because not all of them resulted in  
17 testimony. Livers, Juan Rivera, Corethian & Bell.  
18 Seems to me there was -- There was another case that I  
19 worked on with them that didn't ever really go anywhere.  
20 And I don't know whether I got paid anything on that one  
21 at all. I don't remember the name of it.

22 There may only be four. The three that I've  
23 mentioned are the ones that have considerable  
24 involvement. There may have been others that were just



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1 brief involvement. I don't recall the names.

2 Q. Okay. Other than this case and Corethian  
3 Bell, have you ever been consulted on a Chicago Police  
4 Department case?

5 MS. SUSLER: Just for clarification, by "this  
6 case," you mean Livers v. Schenck?

7 MR. KAMIONSKI: No. I'm -- No. Livers is from  
8 Nebraska.

9 THE WITNESS: Yeah.

10 BY MR. KAMIONSKI:

11 Q. I'm talking about the Nicole Harris case.  
12 Other than Nicole Harris and Corethian & Bell --

13 MS. SUSLER: Objection, form.

14 BY MR. KAMIONSKI:

15 Q. Let me finish my question. Other than  
16 Corethian Bell and Nicole Harris, have you ever been  
17 consulted on or retained in connection with a Chicago  
18 Police Department case?

19 MS. SUSLER: Objection, form.

20 BY THE WITNESS:

21 A. Well, Juan Rivera is from this area. I don't  
22 know if that was Chicago PD. I don't remember.

23 Q. Okay. Anything --

24 A. Other than that, no, I don't think so.

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1           Q.   How much money has Northwestern paid you in  
2 all the work you've ever done for them?

3           MS. SUSLER: Well, same objection about  
4 characterization of "Northwestern."

5 BY THE WITNESS:

6           A.   I have no idea. I just -- I really don't.  
7 Much less than Neufeld Scheck & Brustin.

8           Q.   Less than \$20,000?

9           A.   I would say so.

10          Q.   In all the cases?

11          A.   I think that's true.

12          Q.   Less than \$10,000?

13          A.   I doubt it. I think it would be more than  
14 that, but I think it's less than 20.

15          Q.   Less than 20.

16                   And did you give them any discounts?

17          A.   No. Some of those cases go back some  
18 distance, so I charged less back then but no discounts  
19 really.

20          Q.   And in this case -- What is your hourly rate  
21 in this case?

22          A.   \$400.

23          Q.   Is that for everything \$400 per hour no matter  
24 what you do?

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1           A.    Yes.

2           Q.    Other than the deposition and trial dates?

3           A.    Right.  Those are 4,000 a day.

4           Q.    And how many hours -- Have you billed -- Have  
5 you billed the lawyers in this case yet?

6           A.    I have.

7           Q.    Have you been paid?

8           A.    One invoice has been paid, and the other one  
9 hasn't yet.

10          Q.    And do you keep billing records like time  
11 sheets?

12          A.    I do.

13          Q.    How much time have you -- have you spent on  
14 this case?  You know, let me break it down.  How much  
15 time did you spend on this case at the time you  
16 completed your report?

17          A.    I'd have to look at -- I'd have to look at the  
18 invoice.  I believe it was -- It was over 50 hours.  I  
19 think it was 56 maybe.  I'd have to look.

20          Q.    So if it's -- Do you know how many hours  
21 you've spent since the completion of your report on this  
22 case?

23          A.    None.

24          Q.    If we're going at 56 hours times \$400 an hour,

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1 my math is \$22,400. Does that make sense that that's  
2 what the bills have been to date?

3 A. It's very close to that. It's about 22,000.  
4 It might not quite be 56 hours then, because I think it  
5 was just shy of 22,000.

6 Q. And how much of that has been paid?

7 A. About half.

8 Q. And for today -- You charged us for the two  
9 days \$8,000?

10 A. Yes.

11 Q. So far about \$30,000 in this case?

12 A. Yes.

13 Q. How much time did you spend on the Matthew  
14 Livers case?

15 A. I don't remember. It wasn't anywhere near as  
16 much as this. I don't remember. I will guess -- I  
17 don't know. I've reviewed polygraphs by several people  
18 and wrote a report and gave a deposition. So I don't --  
19 I'd have to look it up. I don't know. 15 hours. But  
20 that's just a wild guess.

21 Q. Plus the dep day?

22 A. Actually, I wasn't charging by the day at that  
23 time, so that was just the hours spent. And the dep was  
24 done in Boise, so it was about four hours for that.

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1 Q. Is that in addition to the 15?

2 A. No. That was included. It was -- I don't  
3 remember working that much on the Livers case. Although  
4 I had two -- two rounds of involvement in the Livers  
5 case -- No. I take that back. I didn't. I'm wrong.  
6 That was not a case. That was just -- That was all the  
7 postconviction stuff with Livers.

8 Q. Were you permitted to testify in Livers?

9 A. No. It settled before.

10 Q. Did you testify in Corethian Bell?

11 A. No. I gave a deposition.

12 Q. Do you know why you didn't testify in  
13 Corethian Bell?

14 A. I believe it settled as well. Yeah. I  
15 believe that's the case. I don't remember that I was  
16 ever told. I discovered that it had settled in reading  
17 some news articles or something.

18 Q. What was the issue of suitability in Livers?

19 A. You know, now that I'm thinking about that  
20 case, I'm not -- I'm not certain there was one that  
21 was -- there was one, because that was -- that was more  
22 about how the tests were run and the scoring. I'd have  
23 to go back and review my report to give you a complete  
24 answer on that.

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1 It was a -- It was a critique of the interview. The  
2 interview was done poorly.

3 Q. Was it on video?

4 A. It was.

5 Q. 92?

6 A. 92. That was also a child witness case.  
7 Again, I critiqued an interview that was recorded. I  
8 thought it was done poorly.

9 Q. Do you have, like, some theories in child  
10 witness interviews that you think they should be done  
11 differently than adult interviews?

12 MS. SUSLER: Objection, form.

13 BY THE WITNESS:

14 A. Yes. There are -- There are differences  
15 between interviewing adults and children. There's a --  
16 There's a protocol that was developed by the federal  
17 government by the National Institute of Child Health and  
18 Human Development that embodies a substantial body of  
19 literature about how children should be interviewed.

20 And the issue with children is that --  
21 especially young children is that they're -- they're  
22 much more suggestible than adults. Although adults can  
23 be suggestible as well. And it's critical that the  
24 interviewer not -- not do a leading or suggestive

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1 interview. And the other difficulty with small children  
2 is to get them to produce narrative responses.

3 And so the NICHD protocol has a series of  
4 techniques that are used to -- to help train the person  
5 to -- the child to give you narrative responses before  
6 you actually get into the issues of the case.

7 Q. You conducted research on child interviews?

8 A. I have a little.

9 Q. And do you concur with the -- that child --  
10 the child witnesses are more suggestible?

11 A. Yes.

12 Q. And do you find -- In your experience, do you  
13 find them also easily manipulate -- not manipulated but  
14 easily suggestible depending on the gravity of the  
15 situation?

16 MS. SUSLER: Objection, form.

17 BY MR. KAMIONSKI:

18 Q. If it's -- Do you find -- Do you find that in  
19 your research that -- that children will sometimes lie  
20 if they -- if they think the event is very traumatic or  
21 scary for them, for lack of a better term?

22 MS. SUSLER: Objection, form, foundation, and  
23 incomplete hypothetical.  
24

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1 BY THE WITNESS:

2 A. I'm actually not sure what you're getting at  
3 there. The work that I did was about will children make  
4 false accusations? And we were able through a fairly --  
5 a fairly simple manipulation in our laboratory to get  
6 children to falsely accuse someone of stealing something  
7 to a police -- a person they believed was a police  
8 officer. And we were able to get about 75 percent of  
9 the children who went through our study at seven years  
10 of age to make false accusations.

11 Q. And in your study, who were the -- who were  
12 the individuals that were suggesting to the kids to make  
13 the false accusations?

14 A. The person who stole the -- In some cases, it  
15 was the person who stole the item. In other cases, it  
16 was a parent who was working with us as a confederate.

17 Q. I missed it. As a what?

18 A. As a confederate. So the parent was working  
19 with us as part of our study.

20 Q. The parent of that specific child?

21 A. Yes.

22 Q. And you found that the parent of the child was  
23 able to get the child to lie?

24 A. Yes.



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1 Q. Did you reach any conclusions why the parent  
2 of the child would be able to get the child to lie?

3 A. No.

4 Q. And that -- And your research showed in that  
5 75 percent of the time that an adult like a parent could  
6 be successful in persuading their child to lie?

7 A. Yeah, in that one setting.

8 Q. Okay. 91?

9 A. We talked about that case. It's a homicide  
10 case. The -- A witness informant was --

11 Q. Got it.

12 A. -- was polygraphed --

13 Q. Okay. I've been trying to mark these off, but  
14 I might have missed one.

15 Number 89. What's a Rule 11-707?

16 A. 707 is the admissibility rule in New Mexico,  
17 so that's the rule that governs the admissibility of  
18 polygraphs.

19 Q. And did you -- Were you reviewing a polygraph  
20 that was conducted by the law enforcement?

21 A. Yes. That's the same case as 91.

22 Q. Got it. Okay. 87?

23 A. 87 was an eyewitness case. It was about the  
24 reliability of an eyewitness.

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1 standards. American Polygraph Association is a -- set  
2 standards and accredits polygraph schools. They publish  
3 two -- They publish a magazine and a journal. The  
4 journal has now reached acceptable scientific status.  
5 It's listed in the scientific indexes as a peer-reviewed  
6 journal. So it's now indexed and peer-reviewed. And I  
7 do work with them. I'm -- I'm an associate editor of  
8 their journal. And I've spoken at APA a couple of times  
9 and at APP as well, but I just don't feel a need to be a  
10 member of the organizations.

11 The scientific organizations do a lot of other  
12 stuff that they also provide standards in but publish a  
13 lot of journals. So both APS and APA on the psych side  
14 are major contributors and supporters of scientific  
15 psychology.

16 Q. Were there any discussions in your retention  
17 about conducting an additional polygraph on Nicole  
18 Harris?

19 A. There were not.

20 MS. SUSLER: Well, objection. Objection. I think  
21 that's privileged.

22 MR. KAMIONSKI: I'm sorry.

23 MS. SUSLER: Well, you know better than that.

24 MR. KAMIONSKI: I -- Well, I -- I wasn't -- I

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1       should have phrased it differently.

2               MS. SUSLER: Move to strike the answer.

3       BY MR. KAMIONSKI:

4               Q. Do you have a supervisor?

5               A. At Boise State, yes.

6               Q. What's his name?

7               A. Roberto Refinetti.

8               Q. Is he the head of your department?

9               A. Yes.

10              Q. Is he also a professor?

11              A. He is.

12              Q. Are you -- Do you know what the law is in  
13 Illinois about the admissibility of polygraphs?

14              A. I believe I do, but I couldn't tell you how I  
15 know that. I believe they're inadmissible here.

16              Q. And you've -- You're aware of other states  
17 it's inadmissible as well?

18              A. Oh, yes.

19              Q. What do you think the purpose is of polygraphs  
20 in a law enforcement setting if polygraphs are not  
21 admissible in court?

22              A. They're used as a supplement to investigation  
23 to make determinations about who's to believe and who  
24 not. So they are a way of narrowing your field of

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1 MS. SUSLER: I figured you did.

2 MR. KAMIONSKI: I just want to go through my notes.

3 BY MR. KAMIONSKI:

4 Q. We went over -- We went over, like, certain  
5 things I asked you, like, if you had certain documents  
6 available, easy access to them.

7 A. Uh-huh.

8 MR. KAMIONSKI: So sorry. But I drafted -- We got  
9 a subpoena drafted. And I can -- to give it to you and  
10 just we can -- or I can serve it or -- It's fine. We  
11 could serve it to you. But this is a subpoena for  
12 documents that we talked about today. And there's a  
13 rider detailing that.

14 Let me do this. Let me take about five minutes, a  
15 little bit more, go through my notes, and then we can  
16 hopefully wrap up. Okay?

17 MR. GIBBONS: Would it make sense if I asked some  
18 questions as you're doing that, or, Jan, do you have a  
19 standing objection that he has to finish before I  
20 commence?

21 MS. SUSLER: No. That's fine. I'm just assuming  
22 that if you're asking him to look through documents,  
23 you're going to pay him for his time?

24 MR. KAMIONSKI: Okay.

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1 MS. SUSLER: I mean, I don't have any objection to  
2 him producing anything that he has.

3 MR. KAMIONSKI: Perfect.

4 MS. SUSLER: It's the materials.

5 THE WITNESS: The cases.

6 MS. SUSLER: All materials on all cases identified  
7 in pages 46 to 51 of your CV.

8 THE WITNESS: In the last ten years.

9 MS. SUSLER: Billing records.

10 Yeah, yeah.

11 THE WITNESS: So in the last ten years.

12 MS. SUSLER: Billing records directed to  
13 Northwestern, billing records directed to us, and  
14 publications and reports.

15 Well, the publications and reports, I mean, if  
16 they're not available to the public, then he can get  
17 those to you. But the ones that were available, I don't  
18 know why he has to produce those to you.

19 MR. KAMIONSKI: I don't mind if they're available  
20 to the public, just if he could -- if someone could send  
21 me e-mails like where do I find -- where do I get all  
22 these? And I can buy them online if that's what it  
23 takes, to buy them online or print them offline. I  
24 don't mind doing that. Just -- I'd like to know where

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1 to go.

2 MS. SUSLER: All right. We'll respond to this  
3 after the dep. I don't want to take up your time during  
4 the dep.

5 THE WITNESS: I will tell you that you're looking  
6 at a large amount of time to get all of that together.

7 MS. SUSLER: If you want, we can give an estimate.

8 But I don't want to take your time --

9 MR. KAMIONSKI: Perfect.

10 MS. SUSLER: -- during the deposition to respond to  
11 the subpoena unless you want to.

12 MR. KAMIONSKI: No. We don't need to do that right  
13 now. I'm going to go over my notes and John is going to  
14 ask some questions, but I can ask some questions after  
15 John.

16 EXAMINATION

17 BY MR. GIBBONS:

18 Q. Mr. Honts, my name is John Gibbons. I  
19 represent the City of Chicago in this case.

20 Now, I think you have in front of you your  
21 report, which has been marked as Exhibit 148; is that  
22 right?

23 A. Yes.

24 Q. Starting on page 1, in the middle of the page,